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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,337	03/26/2001	Bahadir Erimli	F0693	6332
45114	7590	08/10/2005	EXAMINER	
HARRITY & SNYDER, LLP 11240 WAPLES MILL ROAD SUITE 300 FAIRFAX, VA 22030			WONG, BLANCHE	
			ART UNIT	PAPER NUMBER
			2667	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,337

Applicant(s)

ERIMLI ET AL.

Examiner

Blanche Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on January 18, 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-20 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see p.13, filed January 18, 2005, with respect to the rejection(s) of claim(s) 1 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Falco and Wakeman.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over Falco et al. (U.S. Pat No. 6,700,869) in view of Wakeman et al. (U.S. Pat No. 5,594,702).

With regard to cl. 1, Falco discloses a method for determining priorities (controlling data flow) in a network device 14 (communications node) having a receiver 12,23 (receive message, holding memory) and a forwarding engine 36 (buffer memory), comprising:

receiving 34 (processing system, col. 2, ln. 42-43) first data from the receiver 12,23 (input, col. 2, ln. 25; receive message in Fig. 1; holding memory) and second data from the forwarding engine 36 (buffer memory);

determining (scheduler assigns transmit priorities, col. 4, ln. 15-16 and 49-60)

whether the first data contains first priority data;

assigning (scheduler selects the first message in the first non-empty queue ..., col. 4, ln. 42-47) a first priority data frame based on the first priority data when the first data contains the first priority data;

determining (until scheduler sends out all messages in the first non-empty queue..., col. 4, ln. 42-47) when the first data does not contain the first priority data, whether the second data contains second priority data; and

assigning (subsequently, scheduler examines the second non-empty queue..., col. 4, ln. 42-47) a second priority to the data frame based on the second priority data when the second data contains the second priority data.

However, Falco fails to explicitly show the first and second data relating to a data frame received by the network device.

In an analogous art, Wakeman discloses first and second data (address and data in Fig. 2A of either first or second data) relating to a data frame. Wakeman further explicitly show a forwarding engine 114, Fig. 1B(2).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include two data within a data frame. The suggestion/motivation for doing so would have been to provide for storing and retrieving data being transferred between a number of network segments. Wakeman, col. 2, ln. 14-15. Therefore, it

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would have been obvious to combine Wakeman with Falco to obtain the invention as specified in cl. 1.

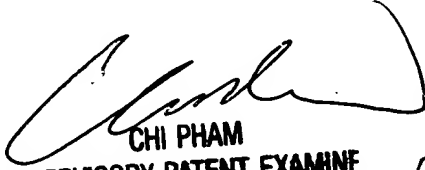
Allowable Subject Matter

4. **Claims 8-20** are allowed.
5. Claims 2-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blanche Wong whose telephone number is 571-272-3177. The examiner can normally be reached on Monday through Friday, 830am to 530pm.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BW

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August 5, 2005


CHI PHAM
SUPERVISORY PATENT EXAMINE
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